



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/944,435	10/06/1997	LAURENCE A. LAVENDEL	36-PI43	1436

5514 7590 04/08/2003

FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER

LUU, SY D

ART UNIT	PAPER NUMBER
----------	--------------

2174

31

DATE MAILED: 04/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

08/944,435

Applicant(s)

LAVENDEL ET AL.

Examiner

Sy D Luu

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2002 and 19 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 74-75, 77-82, 84-89, 91-96, 98-103, and 105-108 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 74-75, 77-82, 84-89, 91-96, 98-103, and 105-108 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This communication is responsive to the Amendment E and the RCE, filed 3/19/2003 and 12/20/2002 respectively. Claims 74-75, 77-82, 84-89, 91-96, 98-103 and 104-108 are pending in this application. Claims 74, 81, 88, 95 and 102 are independent claims. In the Amendment E, claims 74, 81, 88, 95 and 102 were amended. This action is made Non-Final.

#### ***Claim Rejections - 35 USC § 112***

2. Claims 74-75, 77-82, 84-89, 91-96, 98-103 and 104-108 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "can be" in all independent claims is a relative term and is not defined by the claim, which render the claim indefinite. The specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The usage of this term is vague and fails to show positive assertiveness. The Examiner will interpret the claim limitations in light of the disclosure as presented in the specification, however appropriate corrections are required.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 2174

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 74-75, 77-82, 84-89, 91-96, 98-103, and 105-108 rejected under 35 U.S.C. 102(a) as being anticipated by Adobe PhotoDeluxe 2.0 ("PhotoDeluxe #1") and Adobe PhotoDeluxe 2.0 Screendumps #2 ("PhotoDeluxe #2").

As per independent claim 74,

PhotoDeluxe #1 teaches a user interface comprising: a property page (Fig. 2, "*Quality*" *property page* 20) providing an interface (Fig. 2, "*Quality*" *interface* 22), and at least first and second selection elements (Fig. 2, "*Brightness/Contrast*" *button* 24 and "*Color Balance*" *button* 26 ) displayed in the property page, each of the at least first and second selection elements corresponding to a same control ("*Quality*" *control*) and representing a different appearance of the interface for the control provided by the property page (*as shown on figs. 3 and 4*); wherein a first appearance of the interface is provided, in the property page in response to selection of the first selection button (Fig. 3 *depicts an appearance corresponding to the selection of the "Brightness/Contrast" button 24*), and a second appearance of the interface is provided in the property page in response to selection of the second selection button (Fig. 4 *depicts an appearance corresponding to the selection of the "Color Balance" button 26*); and

PhotoDeluxe #2 continues the teaching of PhotoDeluxe #1 with data corresponding to the same control to be input in a different manner based on the selection of the first and second selection elements (Figs. 1-4; *selection elements 202 and 204 results in interfaces 302 and 402 having different manner of input shown as buttons 304 and 404a-f which are also different than the sliders or input fields 32 as shown on fig. 3 of PhotoDeluxe #1*).

Art Unit: 2174

As per claim 75, which is dependent on claim 74, PhotoDeluxe #1 teaches said property page to have a control region (*figs. 3 and 4, control region 30*), which comprises at least one control element (*figs. 3 and 4, control elements 32*).

As per claim 77, which is dependent on claim 74, PhotoDeluxe #1 teaches said first and second selection elements to be shown both when the first appearance is provided and when the second appearance is provided (*Figs. 3 and 4, both "Brightness/Contrast" 24 and "Color Balance" 26 buttons are shown in the first and second appearances*).

As per claim 78, which is dependent on claim 75, PhotoDeluxe #1 teaches said control element to comprise at least one element selected from the group of list boxes, text boxes, check boxes, slides, buttons, and editable curves (*Figs. 3 and 4, control elements 32*).

As per claim 79, PhotoDeluxe #1 teaches said property page to provide tone control (*Fig. 3, "Brightness/Contrast" 24 provides Tone control*) for an image acquisition device (*Fig. 1, scanner device selection 10*).

As per claim 80, PhotoDeluxe #1 teaches the user interface being executed in a windowing environment (*Figs 1-4 depict Photo Deluxe to be running in a windows environment*).

Claims 81, 88, 95 and 102 are similar in scope to claim 74, and are therefore rejected under similar rationale.

Claims 82, 89, 96 and 103 are similar in scope to claim 75, and are therefore rejected under similar rationale.

Claims 84, 91, 98 and 105 are similar in scope to claim 77, and are therefore rejected under similar rationale.

Art Unit: 2174

Claims 85, 92, 99 and 106 are similar in scope to claim 78, and are therefore rejected under similar rationale.

Claims 86, 93, 100 and 107 are similar in scope to claim 79, and are therefore rejected under similar rationale.

Claims 87, 94, 101 and 108 are similar in scope to claim 80, and are therefore rejected under similar rationale.

### ***Response to Arguments***

5. Applicant's arguments with respect to independent claims 74, 81, 88, 95 and 102 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. It is noted that the specific disclosures of multiple buttons functioning as selection elements being arranged based on user's familiarity/level of expertise with or complexity of the different interfaces resulting from user manipulation of the multiple buttons as noted on the first paragraph of page 8 in the specification, which if incorporated together with dependent claims 79, 86, 93, 100 and 107 into their respective independent claims, would appear to overcome the cited prior art.

### ***Inquires***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sy Luu whose telephone number is (703) 305-0409. The examiner can normally be reached on Monday - Thursday from 7:00 am to 4:30 pm (EST). The

Art Unit: 2174

examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640.


The fax number for the organization where this application or proceeding is assigned are as follows:

(703) 746-7238 [After Final Communication]

(703) 746-7239 [Official Communication]

(703) 746-7240 [For status inquiries, Draft Communication]

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



**SY D. LUU**  
**PRIMARY EXAMINER**